

Appl. No. 10/728,225

Amdt. Dated December 7, 2004

Reply to Office Action of October 8, 2004

REMARKS

This is a full and timely response to the non-final Office action mailed October 8, 2004. Reexamination and reconsideration in view of the foregoing amendments and following remarks is respectfully solicited.

Claims 1-24 are pending in this application, with Claim 1 being the independent claim. Claims 1, 3, 4, and 15-18 have been amended, and Claims 2, 5, and 14 have been canceled. No new matter is believed to have been added.

I. Rejections Under 35 U.S.C. § 102

Claims 1, 4, 6, 7, 9-11, 14, 21, 23, and 24 are rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 4,504,044 to Shtarkman ("Shtarkman"). This rejection is respectfully traversed.

Claim 1 relates to a mass damper and has been amended to now recite a housing having at least an outer peripheral surface configured to mount to the mass, and an inner peripheral surface that defines an interior space, the inner peripheral surface configured to be substantially smooth and macro-particles disposed within the housing interior space, the macro-particles comprising material being substantially thermally stable, substantially chemically stable, and substantially wear-resistant in temperatures at least as low as about 0° Kelvin and having substantially smooth surfaces to thereby flow in the housing interior space and simulate a fluid.

Shtarkman teaches a dry viscous spring damper that includes a first housing member joined at least partially to a second housing member with an elastomeric shear spring. See abstract. The first chamber includes a plurality of elastomeric particles. See id. However, nowhere does Shtarkman teach or suggest a housing having an inner peripheral surface configured to be substantially smooth. Moreover, Shtarkman does not suggest macro-particles that comprise material being substantially thermally stable, substantially chemically stable, and substantially wear-resistant in temperatures at least as low as about 0° Kelvin and having substantially smooth surfaces to thereby flow in the housing interior space and simulate a fluid. To the contrary, Shtarkman teaches using

Appl. No. 10/728,225

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particles that are constructed of various elastomeric substances, preferably a natural rubber compound, see col. 4, ll. 61-63, that have highly irregular surfaces. See col. 5, ll. 3-7.

A claim can only be anticipated if each and every element recited in the claim is disclosed in a reference, either explicitly or impliedly. Accordingly, as Shtarkman fails to disclose, either explicitly or inherently, at least the above-noted element of claim 1 and the Examiner has failed to provide such an explicit or inherent disclosure of this element, it is respectfully submitted that the rejection of these claims and the claims that depend therefrom is improper and the Applicants request withdrawal of the § 102(b) rejection.

Claims 1-3, 6-10, 14, 21, 23, and 24 are rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 1,294,467 to Hovas ("Hovas").

Hovas discloses a container filled with small metal balls. However, nowhere in Hovas is there any suggestion or mention of a housing having an inner peripheral surface configured to be substantially smooth. Additionally, Hovas does not teach any particular characteristics of the small metal balls and specifically does not mention macro-particles that comprise material being substantially thermally stable, substantially chemically stable, and substantially wear-resistant in temperatures at least as low as about 0° Kelvin and having substantially smooth surfaces to thereby flow in the housing interior space and simulate a fluid. Thus, as Hovas fails to disclose either explicitly or inherently, at least the above-noted element of claim 1 and the Examiner has failed to provide such an explicit or inherent disclosure of this element, it is respectfully submitted that the rejection of these claims and the claims that depend therefrom is improper and the Applicants request withdrawal of the § 102(b) rejection.

Claims 1-3, 14, and 21-24 are rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 4,744,604 to Lewis et al. ("Lewis").

Lewis teaches a vibration damper for a road planer having a main frame and a sub-frame that includes frame members that form compartments adapted to receive lead shot particles therein. See Abstract. However, nowhere does Lewis suggest or mention a

Appl. No. 10/728,225

Amdt. Dated December 7, 2004

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housing having an inner peripheral surface configured to be substantially smooth. Additionally, Lewis does not mention macro-particles that comprise material being substantially thermally stable, substantially chemically stable, and substantially wear-resistant in temperatures at least as low as about 0° Kelvin and having substantially smooth surfaces to thereby flow in the housing interior space and simulate a fluid. Thus, as Lewis fails to disclose either explicitly or inherently, at least the above-noted element of claim 1 and the Examiner has failed to provide such an explicit or inherent disclosure of this element, it is respectfully submitted that the rejection of these claims and the claims that depend therefrom is improper and the Applicants request withdrawal of the § 102(b) rejection.

Rejections Under 35 U.S.C. § 103

Claims 5, 12, 13, and 15-20 are rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Hovas or Shtarkman. This rejection is respectfully traversed.

Claims 5, 12, 13, and 15-20 depend from claim 1. Therefore, these claims rely on the arguments presented above.

Conclusion

Based on the above, independent Claim 1 is patentable over the citations of record. The dependent claims are also submitted to be patentable for the reasons given above with respect to the independent claims and because each recite features which are patentable in its own right. Individual consideration of the dependent claims is respectfully solicited.

The other art of record is also not understood to disclose or suggest the inventive concept of the present invention as defined by the claims.

Hence, Applicants submit that the present application is in condition for allowance. Favorable reconsideration and withdrawal of the objections and rejections set forth in the above-noted Office Action, and an early Notice of Allowance are requested.

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If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

If for some reason Applicants have not paid a sufficient fee for this response, please consider this as authorization to charge Ingrassia, Fisher & Lorenz, Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

INGRASSIA FISHER & LORENZ

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